

for the safety of vessel traffic and the protection of life and property along the shore.

EFFECTIVE DATES: This regulation is effective on May 4, 1995 and will remain in effect until June 2, 1995, unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Robert Siddall, Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539-3823.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG A.B. Cheney, Project Officer, Marine Safety Office, St. Louis, Missouri and LT S.M. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this rule and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent heavy rainfall on already saturated ground in portions of the Upper Mississippi River Basin has caused tributaries and the southern portion of the Upper Mississippi River to approach and exceed flood stages, leaving insufficient time to publish a proposed rulemaking. The Coast Guard deems it to be in the public's interest to issue a rule without waiting for comment period since high water conditions present immediate hazard.

Background and Purpose

The Upper Mississippi River in the vicinity of St. Louis Harbor has seen a rapid rise in the water level and is expected to be above flood stage by May 13, 1995. Recent torrential downpours, predominately in Missouri and southern Illinois, caused a very rapid rise in river stages. Water conditions that cause rapid and sharp rises in river stages also cause treacherous currents in the vicinity of bridges within St. Louis Harbor. These currents make the approach to the bridges more critical since the time to impose course corrections are diminished. Additionally, the high water conditions reduce both the vertical and horizontal clearances available to the navigating tow. Reducing tow lengths and increasing horsepower requirements will offset the effect of the increased current. The circumstances requiring this rule are swift currents and a rapid

rise in river level on the Upper Mississippi River at St. Louis, MO. This rule is required for the safety and protection of vessels transiting the safety zone.

Regulatory Evaluation

This regulation is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

The Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary. The imposed restrictions are anticipated to be of short duration. Captain of the Port, St. Louis, Missouri will monitor river conditions and will authorize entry into the closed area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz). Mariners may also call the Port Operations Officer, Captain of the Port, St. Louis, Missouri at (314) 539-3823 for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2.g.[5] of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation as an action to protect public safety. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (Water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T02-028 is added, to read as follows:

§ 165.T02-028 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 179.0 and 184.0 is established as a safety zone.

(b) *Effective Dates.* This section is effective on May 4, 1995 and will terminate on June 2, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 of this part which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: May 4, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95-12282 Filed 5-17-95; 8:45 am]

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33 CFR Part 165

[CGD01-95-055]

RIN 2115-AA97

Safety Zone: Ellis Island NECO Awards Gala Fireworks, Upper New York Bay, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks program located in Federal Anchorage 20C in Upper New York Bay, New York. This safety zone will be in

effect on May 21, 1995, from 10:15 p.m. until 11:30 p.m. The safety zone will temporarily close all waters of the Upper New York Bay, within a 300 yard radius of the fireworks barges anchored approximately 300 yards east of Liberty Island, New York.

EFFECTIVE DATE: This rule is effective on May 21, 1995, from 10:15 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for not publishing an NPRM. Due to the date this application was received, there was insufficient time to draft and publish a notice of proposed rulemaking that allows for a reasonable comment period prior to the event. The delay encountered if normal rulemaking procedures were followed would effectively cancel this event. Cancellation of this event is contrary to public interest.

Background and Purpose

On May 1, 1995, Fireworks by Grucci submitted an application to hold a fireworks program in the waters of Upper New York Bay, off of Liberty Island, New York. This fireworks program is being sponsored by the National Ethnic Coalition of Organizations Foundation, Inc., (NECO). This rule establishes a temporary safety zone in all waters of the Upper New York Bay within a 300 yard radius of fireworks barges anchored approximately 300 yards east of Liberty Island, New York, at or near 40°41'17"N latitude, 74°02'25"W longitude. The safety zone will be in effect on May 21, 1995, from 10:15 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York. This safety zone precludes all vessels from transiting this portion of the Upper New York Bay and is needed to protect mariners from the hazards associated with fireworks exploding in the area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the Upper New York Bay to all vessel traffic on May 21, 1995, from 10:15 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this rule will not be significant for several reasons. Due to the fact that this safety zone will not impact any navigable channel; that the duration of the event is limited; that the event is at a late hour; and that extensive, advance advisories will be made to the maritime community, the impact of this rule is expected to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this rule to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not raise sufficient

federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Temporary Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary section, § 165.T01-055, is added to read as follows:

§ 165.T01-055 Safety Zone; Ellis Island NECO Awards Gala Fireworks, Upper New York Bay, New York and New Jersey.

(a) *Location.* All waters of Federal Anchorage 20C, Upper New York Bay, within a 300 yard radius of the fireworks barges anchored approximately 300 yards east of Liberty Island, New York, at or near 40°41'17"N latitude, 074°02'25"W longitude. (Datum: NAD 83)

(b) *Effective period.* This section is in effect on May 21, 1995, from 10:15 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 10, 1995.

T. H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-50611A; FRL-4953-7]

RIN 2070-AB27

1*H*,3*H*,5*H*-oxazolo [3,4-*c*] oxazole, Dihydro-7*a*-methyl-; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as 1*H*,3*H*,5*H*-oxazolo [3,4-*c*] oxazole, dihydro-7*a*-methyl-, which is the subject of premanufacture notice (PMN) P-91-1324. This rule will require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: The effective date of this rule is July 17, 1995. This rule shall be promulgated for purposes of judicial review at 1 p.m. (e.s.t.) on June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. EB-543B, 401 M Street, SW., Washington, DC 20460, telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires

persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.25.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitter of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5 (h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 as appropriate to control the activities for which it has received the SNUR. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Background

EPA published a proposed SNUR for the chemical 1*H*,3*H*,5*H*-oxazolo [3,4-*c*] oxazole, dihydro-7*a*-methyl- in the **Federal Register** of November 2, 1994 at 59 FR 54874. The background and reasons for the SNUR are set forth in the preamble to the proposed SNUR. The proposed SNUR designated exposure to the PMN substance without ocular protection (chemical goggles or equivalent eye protection) and any predictable or purposeful release of the PMN substance to surface water above 500 parts per billion (ppb) as significant new uses. The Agency received no

public comment concerning the proposed SNUR. As a result, EPA is promulgating this final SNUR.

IV. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of this chemical substance, EPA considered relevant information about the toxicity of the substance, likely exposures/releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA.

Section 5(a)(2) of TSCA provides that EPA's determination that a chemical substance is a significant new use must be made after a consideration of all relevant factors including:

A. The projected volume of manufacturing and processing of a chemical substance.

B. The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

C. The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

D. The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

EPA construes the statute to allow consideration of any other relevant factors, in addition to those enumerated in section 5(a)(2)(A) through (D), because it is not an exclusive list.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the final rule. If uses which commence between the proposal date and the effective date of the final rule were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses identified in this SNUR after the date of the proposed rule will have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of